

BEFORE THE HUMAN RIGHTS COMMISSION  
OF THE STATE OF MONTANA

NICOLAS CONLAN,

Case # 0095013637

Charging Party,

ORDER

-v-

WENDY'S OF MONTANA INC., LEAH  
JOHNSON, BRIAN LAST NAME  
UNKNOWN, PAUL LAST NAME  
UNKNOWN, CHRIS DISALVATORE, BEN  
LAST NAME UNKNOWN

Respondent.

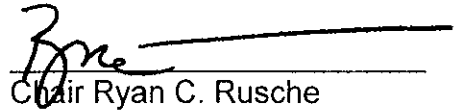
Nicolas Conlan (Conlan) filed a complaint with the Department of Labor and Industry (Department) alleging that Wendy's of Montana, Inc., et al, (Wendy's) discriminated against him in the area of employment on the basis of his sex (male) when Wendy's subjected him to a pervasively hostile work environment. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Conlan's allegations of unlawful discrimination or retaliation. The Department issued a Notice of Dismissal. Conlan filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on September 22, 2010. Ryan Shaffer appeared and argued on behalf of Conlan. \_Oliver Goe appeared and argued on behalf of Wendy's.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. Section 49-2-511(2), MCA. After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint in this case is an abuse of discretion. Therefore, the Commission sustains the objection and the case is hereby remanded for hearing to the Hearings Bureau pursuant to § 49-2-505, MCA.

Nothing in this order precludes the parties from engaging in the mediation or other settlement negotiations that would normally occur if the Department's investigative report had found cause. See § 49-2-504(2)(b), MCA.

IT IS HEREBY ORDERED, that Nicolas Conlan's objection is **sustained**. The Commission reopens and remands the case to the Hearings Bureau for hearing.

DATED this 1<sup>st</sup> day of October 2010.


  
Chair Ryan C. Rusche  
Human Rights Commission

## CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this 10<sup>th</sup> day of October 2010.

RYAN SHAFFER  
ATTORNEY AT LAW  
405 SOUTH 1<sup>ST</sup> ST. WEST  
MISSOULA MT 59801

OLIVER GOE  
ATTORNEY AT LAW  
P.O. BOX 1697  
HELENA MT 59624

  
Montana Human Rights Bureau